

DELEGATE J. CLARK (presiding): Your time is up.

The motion before the House for this Committee is on the adoption of Amendment No. 11 which is the Wagandt amendment which adds "public general" after the word "by" and before the word "law".

Delegate Macdonald.

DELEGATE MACDONALD: Mr. Chairman and fellow delegates: I think that Delegate Case has made a very good point and a very good observation. I think this amendment by Delegate Wagandt probably goes further than the sponsor intended.

As has been brought out here, it would prohibit the counties to which we have given home rule the opportunity of legislating on this subject. I would request the sponsor of the amendment to withdraw this. Maybe we can come back to it later, but I think this is something that we may be able to work out over the lunch hour.

DELEGATE J. CLARK (presiding): Delegate Wagandt.

DELEGATE WAGANDT: If I may re-offer it, I would be happy to withdraw it at this time and discuss it with Delegates Macdonald and Claggett during lunch as has been suggested.

DELEGATE J. CLARK (presiding): Do you withdraw the amendment?

DELEGATE WAGANDT: I seem to get some shaking of heads. I would like to get a chance to confer with the individuals who have raised this question. Perhaps we could step out into the lounge and not hold up the proceedings of this Committee.

DELEGATE J. CLARK (presiding): Very well. The amendment is withdrawn and can be taken up at a later time.

If there are no objections, we will move on to section 8. Are there any amendments to section 8?

DELEGATE BENNETT: Can we not proceed and adopt section 7 subject to further amendment?

DELEGATE J. CLARK (presiding): No, sir. That is not the procedure. It is still open to amendment. We do not adopt it section by section as we go along.

Delegate Scanlan.

DELEGATE SCANLAN: I have an Amendment R to section 8. Briefly, the amendment would strike the section.

DELEGATE J. CLARK (presiding): This will be Amendment No. 12, marked "R" at the top. The clerk will read the amendment.

READING CLERK: This is Amendment No. 12 to Committee Recommendation R&P-2 by Delegate Scanlan:

On page 3 section 8, Right of Removal of Civil Cases strike out all of lines 11 through 20, inclusive.

DELEGATE J. CLARK (presiding): The Chair recognizes Delegate Scanlan.

DELEGATE SCANLAN: Although somewhat shaken, I remain undeterred to keep out of the constitution things that have no necessity for insertion there. This refers to the right of removal in civil cases. It concerns the practice where the mere filing of an affidavit requires that the Court transfer the case out of the jurisdiction. This rule has been essentially abused in my own county. I know in other jurisdictions it has also been subject to abuse.

The right of a removal should be guaranteed by statute or by rule of court as is the case in federal jurisdiction and in most states.

I will not occupy the time and attention of this Convention by belaboring the point. The right of removal has been abused, and while the right should be preserved, it should be preserved in the legislature. The abuse of this right of removal is one of the contributing factors. This should be left to the General Assembly and courts not enshrined forever in the constitution.

DELEGATE J. CLARK (presiding): The Chair recognizes Delegate Kiefer.

DELEGATE KIEFER: Mr. Chairman, there have been a number of amendments to this. This is a particular section which is the special interest of Delegate Willoner who has special expertise and I delegate him to answer all questions.

DELEGATE J. CLARK (presiding): The Chair recognizes Delegate Willoner.

DELEGATE WILLONER: We agreed on a committee amendment. I would feel that that committee amendment should be the first matter that we take up instead of the elimination of the section altogether, because it becomes very difficult to debate the issue. I believe it was amendment —

DELEGATE J. CLARK (presiding): The Chair will rule that this is in order. You can offer your amendment. Is this your wish?